

- 1 4. The parties' rights and obligations as of the date of this order are hereby preserved and left
2 intact until this stay is lifted in the event that further proceedings in this Court may prove
3 necessary. Neither party is under any obligation to take any action with respect to this case
4 (including any obligation to move, plead or otherwise respond to the operative complaint)
5 until such time as this stay is lifted and any deadline to take any action, including bringing
6 this matter to trial, shall be tolled during the period of this stay (without prejudice to
7 arguments concerning any deadlines that may exist at the time the stay is entered);
- 8 5. The parties shall promptly notify the Court following the date the California Supreme Court's
9 judgment in *Brinker* becomes final, at which time, the Court may schedule further
10 proceedings, as appropriate. The parties agree that, in the event this case is remanded to state
11 court, the parties will also seek an appropriate stay in state court.

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13
14 DATED: February __, 2009

GIBSON, DUNN & CRUTCHER LLP

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16 By: _____
17 G. Charles Nierlich

18 Attorneys for Defendant WAL-MART STORES, INC.

19 DATED: February 19, 2009

20 WAGNER & JONES

21 By: _____
22 Andrew B. Jones

23 Attorneys for Plaintiffs

24 This case is stayed expect for the
25 Motion to Remand.

26 100598931_2

